Copyright Board of Canada

2017-18

Departmental Plan

The Honourable Navdeep Bains, P.C., M.P.
Minister of Innovation, Science and Economic Development

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Minister's message

Our 2017–18 Departmental Plan provides parliamentarians and Canadians with information on what we do and the results we are trying to achieve during the upcoming year. To improve reporting to Canadians, we are introducing a new, simplified report to replace the Report on Plans and Priorities.

The title of the report has been changed to reflect its purpose: to communicate our annual performance goals and the financial and human resources forecast to deliver those results. The report has also been restructured to tell a clearer, more straightforward and balanced story of the actual results we are trying to achieve, while continuing to provide transparency on how tax payers' dollars will be spent. We describe our programs and services for Canadians, our priorities for 2017–18, and how our work will fulfill our departmental mandate commitments and the government's priorities.

Through the programs of the Innovation, Science and Economic Development Portfolio, we are working together to deliver Canada's Innovation Agenda—a whole-of-government initiative to position Canada as a global centre for innovation, create better jobs and opportunities for the middle class, drive growth across all industries and improve the living standards of all Canadians. The work of the Portfolio also includes commercializing more research and ideas; providing more Canadians with the skills to participate in a global and digital economy; helping small businesses grow through innovation, access to capital and trade; promoting increased tourism to Canada; and supporting scientific research and the integration of scientific considerations in our investment and policy choices.

It is my pleasure to present the Departmental Plan for Copyright Board of Canada for 2017–18.

The Honourable Navdeep Bain
Minister of Innovation, Science
and Economic Development s

Plans at a glance

The Copyright Board of Canada's on-going priority is to ensure timely and fair processes and decisions for all of the tariffs and licences that are being examined or certified. The requirement to have timely decisions is expressly stated in the Act: the Board is to consider "as soon as practicable" a proposed tariff and any objections thereto. The Board is also to publish the approved tariffs in the Canada Gazette as soon as is practicable. The requirement to have fair processes and decisions is implicit: the Act gives the Board the powers, rights and privileges of a superior court of record; as such, the Board is required to follow the principles of natural justice which, taken together, ensure both fair processes and fair outcomes.

The rationale underlying this priority is to minimize administrative costs to Canadians from the setting of tariffs and to streamline the process in the face of increasing complexities in hearing subject matter, thus increasing regulatory efficiency. To the extent that this also leads to fairer decision-making, the overall innovation capability of parties affected by the copyright tariff process will be improved.

The Board will achieve this result by ensuring that participation costs in the hearing process are kept as low as possible, thus encouraging participation of the parties and streamlining the process. This implies in particular that the Board will provide appropriate guidance, information and analysis to the participants in order to facilitate the examination process and to foster greater participants' satisfaction.

As it has done in the past, the Board will continue to engage in informal pre-hearing consultations and information gathering, and conduct well-organized proceedings which address key issues facing copyright-related industries.

Finally, for each process, the Board will examine how to structure and sequence witnesses and hearing stages so as to eliminate duplication and maximize time spent on relevant issues.

For more information on the Board's plans, priorities and planned results, see the "Planned results" section of this report.

Raison d'être, mandate and role: who we are and what we do

Raison d'être

The Copyright Board of Canada (the "Board") is an economic regulatory body empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of copyrighted works, when the administration of such copyright is entrusted to a collective-administration society. The Board also has the right to supervise agreements between users and licensing bodies and issues licences when the copyright owner cannot be located.

Mandate and role

The responsibilities of the Board under the Copyright Act are to:

- certify tariffs for
  - the public performance of the communication to the public by telecommunication of musical works and sound recordings;
  - the doing of any protected act mentioned in sections 3, 15, 18 and 21 of the Act;
  - the retransmission of distant television and radio signals or the reproduction and public performance by educational institutions, of radio or television news or news commentary programs and all other programs, for educational or training purposes.

- set levies for the private copying of recorded musical works;

- set royalties payable by a user to a collective society, when there is disagreement on the royalties or on the related terms and conditions;

- rule on applications for non-exclusive licences to use published works, fixed performances, published sound recordings and fixed communication signals, when the copyright owner cannot be located;

- examine agreements made between a collective society and a user which have been filed with the Board by either party, where the Commissioner of Competition considers that the agreement is contrary to the public interest;

- receive such agreements with collective societies that are filed with it by any party to those agreements within 15 days of their conclusion;

- determine the compensation to be paid by a copyright owner to a person to stop her from performing formerly unprotected acts in countries that later join the Berne Convention, the Universal Convention or the Agreement establishing the World Trade Organization; and,

- conduct studies with respect to the exercise of its powers as requested by the Minister of Industry.

For more general information about the Board, see the "Supplementary information" section of this report. For more information on the department's organizational mandate letter commitments, see the Minister's mandate letter on the Prime Minister of Canada's website.[i]

Operating context: conditions affecting our work

The legislative framework of the Board has changed exponentially over the years. The Board was created in 1989 by the Phase I of the modifications to the Copyright Act as the successor of the Copyright Appeal Board which had been in existence since 1935. A second major phase of amendments to the Copyright Act, adopted in 1997 as Bill C-32, significantly expanded the Board's mandate and responsibilities.

A third major phase of amendments, the Copyright Modernization Act (Bill C-11), came into force in November 2012. By adding new rights and exceptions, this third phase of amendments further expanded the Board's mandate and workload.

In addition, decisions of the Federal Court of Appeal and of the Supreme Court of Canada continuously add to the legal and policy issues the Board must address and take into consideration.

Against this legal background, the Board must ensure to render fair, equitable and timely decisions that require dealing with increasingly complex legal and economic issues. Its decisions must be based on solid legal and economic principles, reflect a solid understanding of constantly evolving business models and technologies, and be fair and equitable to both copyright owners and users.

This operating background puts pressure on the Board to adjust its procedures to facilitate timely turnaround in its tariff certification process. In this context, the Board has already undertaken to develop options and recommendations as to how the Act's scheme as well as the Board's practices and procedures can be modified so as to better meet the challenges of today's fast-paced digital economy. These options and recommendations will be developed as part of the forthcoming parliamentary review of the Copyright Act expected in November 2017.

Key risks: things that could affect our ability to achieve our plans and results

The decisions the Board makes are constrained in several respects. These constraints come from sources external to the Board: the law, regulations and judicial pronouncements. Others are self-imposed, in the form of guiding principles that can be found in the Board's decisions: for instance, the coherence between the various tariffs, their ease of administration and the need for some stability in the tariffs.

Court decisions also provide a large part of the framework within which the Board operates. Most decisions focus on issues of procedure, or apply the general principles of administrative decision-making to the specific circumstances of the Board. However, the courts have also set out several substantive principles for the Board to follow or that determine the ambit of the Board's mandate or discretion.

Among the most significant risks which the Board faces in achieving its strategic outcomes is the potentially disruptive impact of new technologies (i.e., in terms of how copyright material is utilized, distributed and monitored). The Board's approach to managing the technology risk is to systematically monitor relevant journals, other publications and web sites, and to attend industry seminars and conferences, as described before in this report.

A smaller risk, which the Board faces in achieving its strategic outcome, is reversal risk. While decisions of the Board are not appealable, they are subject to judicial review. The ability to schedule a number of cases in a year could be impaired if a case from a previous year were reversed on judicial review. The Board's principal strategy to mitigate this risk is issuing fair and equitable decisions.

There is also a risk of failure to identify or retain the staff with the necessary technical expertise to achieve required results. Given the size of the Board, this is a significant risk that has the potential of directly affecting its capacity to adequately fulfill its mandate. To mitigate this risk, the Board runs well-organized job competitions, designed to target a significant share of the pool of potential candidates. The Board also takes measures to encourage a large number of applications. The Board also works at creating a stimulating working environment conducive to a high retention rate among its employees.

Key risks

Risks	Risk response strategy	Link to the Board's Programs	Link to mandate letter commitments or to government-wide and departmental priorities
Technology risk	• Systematically monitor relevant publications and web sites, and attend industry seminars and conferences.	Copyright tariff setting and issuance of licences	Innovation Agenda
Reversal risk	• Issue fair and equitable decisions.		
HR risk	• Run well-organized job competitions, designed to target a significant share of the pool of potential candidates. • Create a stimulating working environment conducive to a high retention rate among its employees.		

Planned results: what we want to achieve this year and beyond

Programs

Program title: Copyright Tariff Setting and Issuance of Licences

Description

The statutory mandate of the Board is to establish tariffs to be paid for the use of copyrighted works, when the administration of such copyright is entrusted to a collective-administration society, and to issue licences when the copyright owner cannot be located. This program activity allows the Board to render decisions and issue licences such that the Board fulfills its mandate.

Planning highlights

Improving the efficiency of the regulatory process involves continual refinements in scheduling of witnesses, establishing and communicating the parameters of the hearing to participants, consulting with key stakeholders and developing codes of hearing practice and related guidelines for the conduct of hearings. By improving the efficiency of the tariff hearing process, this activity is expected to contribute to the objective of reducing the regulatory burden.

Delays in providing written decisions to Canadian copyright industry stakeholders can cause uncertainty, thus impacting on the Board's capacity to provide incentives for the creation and use of copyrighted works. Therefore, we will gather data on the number of months between the date when a particular tariff file is closed, and the date of the corresponding decision.

In addition, pursuant to section 77 of the Act, the Board may grant licences that authorize the use of published works, fixed performances, published sound recordings and fixed communication signals if the copyright owner cannot be located. The Board's objective with respect to this activity is to issue licences in a timely manner. Therefore, we will also gather data on the number of months between the date when a particular licence file is closed, and the date of issuance of the licence.

In an effort to devote resources to experimentation with new approaches, the Board is currently developing options in respect of its practices and procedures to improve the efficiency of its processes. Once implementation of these options is complete, the Board will examine the possibility of reducing the timeframes for publishing tariff decisions and issuing licences.

Planned results

Expected results	Performance indicators	Target	Date to achieve target	2013-14 Actual results	2014-15 Actual results	2015-16 Actual results
Fair decision-making to provide proper incentives for the creation and uses of copyrighted works	Percentage of tariff decisions published within 12 months	70%	2017-03-31	100%	78%	50%
	Percentage of licences issued within 45 days	70%	2017-03-31	89%	86%	100%

Note: While 7 tariff decisions were rendered in 2013-14 and 9 in 2014-15, only two decisions were rendered in 2015-16. Even though only one of these two decisions was not rendered within 12 months, the resulting percentage for 2015-16 is nevertheless 50%.

Budgetary financial resources (dollars)

2017-18 Main Estimates	2017-18 Planned spending	2018-19 Planned spending	2019-20 Planned spending
2,490,530	2,490,530	2,490,530	2,490,530

Human resources (full-time equivalents)

2017-18 Planned full-time equivalents	2018-19 Planned full-time equivalents	2019-20 Planned full-time equivalents
15	15	15

Internal Services

Description

Internal Services are those groups of related activities and resources that the federal government considers to be services in support of programs and/or required to meet corporate obligations of an organization. Internal Services refers to the activities and resources of the 10 distinct service categories that support Program delivery in the organization, regardless of the Internal Services delivery model in a department. The 10 service categories are: Management and Oversight Services; Communications Services; Legal Services; Human Resources Management Services; Financial Management Services; Information Management Services; Information Technology Services; Real Property Services; Materiel Services; and Acquisition Services.

Planning highlights

The Board receives timely support from internal services, namely: finance; human resources; communications; information management and information technology. This activity contributes to the creation of an environment that will allow the Board to fulfill its mandate and realize its objective.

Budgetary financial resources (dollars)

2017-18 Main Estimates	2017-18 Planned spending	2018-19 Planned spending	2019-20 Planned spending
584,199	584,199	584,199	584,199

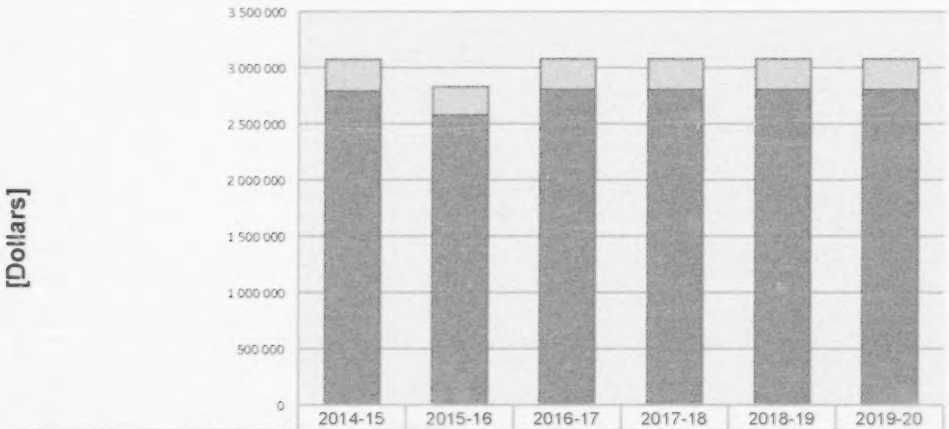
Human resources (full-time equivalents)

2017-18 Planned full-time equivalents	2018-19 Planned full-time equivalents	2019-20 Planned full-time equivalents
3	3	3

Spending and human resources

Planned spending

Board's spending trend graph



	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Sunset Programs – Anticipated	0	0	0	0	0	0
Statutory	279 307	255 214	272 088	272 088	272 088	272 088
Voted	2 790 199	2 573 491	2 802 641	2 802 641	2 802 641	2 802 641
Total	3 069 506	2 828 705	3 074 729	3 074 729	3 074 729	3 074 729

Actual spending decreased from $3.1 million in 2014-15 to $2.8 million in 2015-16, a reflection of the departure of some employees. Forecast spending for 2016-17 increases to 3.1 million. Over the next three fiscal years, total planned spending is also about $3.1 million.

Budgetary planning summary for Programs and Internal Services (dollars)

Programs and Internal Services	2014-15 Expenditures	2015-16 Expenditures	2016-17 Forecast spending	2017-18 Main Estimates	2017-18 Planned spending	2018-19 Planned spending	2019-20 Planned spending
Copyright Tariff Setting and Issuance of Licences	2,486,300	2,291,251	2,513,195	2,490,530	2,490,530	2,490,530	2,490,530
Subtotal	**2,486,300**	**2,291,251**	**2,513,195**	**2,490,530**	**2,490,530**	**2,490,530**	**2,490,530**
Internal Services	583,206	537,454	589,515	584,199	584,199	584,199	584,199
Total	**3,069,506**	**2,828,705**	**3,104,640**	**3,074,729**	**3,074,729**	**3,074,729**	**3,074,729**

Planned human resources

Human resources planning summary for Programs and Internal Services (full-time equivalents)

Programs and Internal Services	2014-15 Full-time equivalents	2015-16 Full-time equivalents	2016-17 Forecast full-time equivalents	2017-18 Planned full-time equivalents	2018-19 Planned full-time equivalents	2019-20 Planned full-time equivalents
Copyright Tariff Setting and Issuance of Licences	11	16	15	15	15	15
Subtotal	**11**	**16**	**15**	**15**	**15**	**15**
Internal Services	3	2	3	3	3	3
Total	**14**	**18**	**18**	**18**	**18**	**18**

Estimates by vote

For information on the Board's organizational appropriations, consult the 2017–18 Main Estimates.[ii]

Future-Oriented Condensed Statement of Operations

The Future-Oriented Condensed Statement of Operations provides a general overview of the Board's operations. The forecast of financial information on expenses and revenues is prepared on an accrual accounting basis to strengthen accountability and to improve transparency and financial management.

Because the Future-Oriented Condensed Statement of Operations is prepared on an accrual accounting basis, and the forecast and planned spending amounts presented in other sections of the Departmental Plan are prepared on an expenditure basis, amounts may differ.

A more detailed Future-Oriented Statement of Operations and associated notes, including a reconciliation of the net cost of operations to the requested authorities, are available on the Board's website.

Future-Oriented Condensed Statement of Operations for the year ended March 31, 2018 (dollars)

Financial information	2016-17 Forecast results	2017-18 Planned results	Difference (2017-18 Planned results minus 2016-17 Forecast results)
Total expenses	3,691,227	3,525,827	(165,400)
Total revenues	-	-	-
Net cost of operations before government funding and transfers	3,691,227	3,525,827	(165,400)

The estimated net cost of operations for 2016-17 is higher than the planned net cost of operations for 2017-18, mainly as a reflection of the addition of the carry forward to the 2016-17 results.

Supplementary information

Corporate information

Organizational profile

Appropriate ministers: The Honourable Navdeep Bains, P.C., M.P
Minister of Innovation, Science and Economic Development

The Honourable Kirsty Duncan, P.C., M.P.
Minister of Science

The Honourable Bardish Chagger, P.C., M.P.
Minister of Small Business and Tourism and Leader of the Government in the House of Commons

Institutional head: Claude Majeau, Vice-Chairman and CEO

Ministerial portfolio: Innovation, Science and Economic Development

Enabling instrument(s): Copyright Act[iii]

Year of incorporation / commencement: 1989

Reporting framework

The Copyright Board of Canada's Strategic Outcome and Program Alignment Architecture (PAA) of record for 2017-18 are shown below:

1. Strategic Outcome: Fair decision-making to provide proper incentives for the creation and use of copyrighted works.

1.1 Program: Copyright Tariff Setting and Issuance of Licences

Internal Services

Federal tax expenditures

The tax system can be used to achieve public policy objectives through the application of special measures such as low tax rates, exemptions, deductions, deferrals and credits. The Department of Finance Canada publishes cost estimates and projections for these measures each year in the Report on Federal Tax Expenditures.[iv] This report also provides detailed background information on tax expenditures, including descriptions, objectives, historical information and references to related federal spending programs. The tax measures presented in this report are the responsibility of the Minister of Finance.

Organizational contact information

Copyright Board of Canada
Suite 800 - 56 Sparks Street
Ottawa, Ontario K1A 0C9
Telephone: 613.952.8621
E-mail: secretariat@cb-cda.gc.ca

Appendix: definitions

appropriation (crédit)

Any authority of Parliament to pay money out of the Consolidated Revenue Fund.

budgetary expenditures (dépenses budgétaires)

Operating and capital expenditures; transfer payments to other levels of government, organizations or individuals; and payments to Crown corporations.

Core Responsibility (responsabilité essentielle)

An enduring function or role performed by a department. The intentions of the department with respect to a Core Responsibility are reflected in one or more related Departmental Results that the department seeks to contribute to or influence.

Departmental Plan (Plan ministériel)

Provides information on the plans and expected performance of appropriated departments over a three-year period. Departmental Plans are tabled in Parliament each spring.

Departmental Result (résultat ministériel)

A Departmental Result represents the change or changes that the department seeks to influence. A Departmental Result is often outside departments' immediate control, but it should be influenced by program-level outcomes.

Departmental Result Indicator (indicateur de résultat ministériel)

A factor or variable that provides a valid and reliable means to measure or describe progress on a Departmental Result.

Departmental Results Framework (cadre ministériel des résultats)

Consists of the department's Core Responsibilities, Departmental Results and Departmental Result Indicators.

Departmental Results Report (Rapport sur les résultats ministériels)

Provides information on the actual accomplishments against the plans, priorities and expected results set out in the corresponding Departmental Plan.

full-time equivalent (équivalent temps plein)

A measure of the extent to which an employee represents a full person-year charge against a departmental budget. Full-time equivalents are calculated as a ratio of assigned hours of work to scheduled hours of work. Scheduled hours of work are set out in collective agreements.

government-wide priorities (priorités pangouvernementales)

For the purpose of the 2017–18 Departmental Plan, government-wide priorities refers to those high-level themes outlining the government's agenda in the 2015 Speech from the Throne, namely: Growth for the Middle Class; Open and Transparent Government; A Clean Environment and a Strong Economy; Diversity is Canada's Strength; and Security and Opportunity.

horizontal initiatives (initiative horizontale)

A horizontal initiative is one in which two or more federal organizations, through an approved funding agreement, work toward achieving clearly defined shared outcomes, and which has been designated (e.g. by Cabinet, a central agency, etc.) as a horizontal initiative for managing and reporting purposes.

Management, Resources and Results Structure (Structure de la gestion, des ressources et des résultats)

A comprehensive framework that consists of an organization's inventory of programs, resources, results, performance indicators and governance information. Programs and results are depicted in their hierarchical relationship to each other and to the Strategic Outcome(s) to which they contribute. The Management, Resources and Results Structure is developed from the Program Alignment Architecture.

non-budgetary expenditures (dépenses non budgétaires)

Net outlays and receipts related to loans, investments and advances, which change the composition of the financial assets of the Government of Canada.

performance (rendement)

What an organization did with its resources to achieve its results, how well those results compare to what the organization intended to achieve, and how well lessons learned have been identified.

Performance indicator (indicateur de rendement)

A qualitative or quantitative means of measuring an output or outcome, with the intention of gauging the performance of an organization, program, policy or initiative respecting expected results.

Performance reporting (production de rapports sur le rendement)

The process of communicating evidence-based performance information. Performance reporting supports decision making, accountability and transparency.

planned spending (dépenses prévues)

For Departmental Plans and Departmental Results Reports, planned spending refers to those amounts that receive Treasury Board approval by February 1. Therefore, planned spending may include amounts incremental to planned expenditures presented in the Main Estimates.

A department is expected to be aware of the authorities that it has sought and received. The determination of planned spending is a departmental responsibility, and departments must be able to defend the expenditure and accrual numbers presented in their Departmental Plans and Departmental Results Reports.

plans (plan)

The articulation of strategic choices, which provides information on how an organization intends to achieve its priorities and associated results. Generally a plan will explain the logic behind the strategies chosen and tend to focus on actions that lead up to the expected result.

Priorities (priorité)

Plans or projects that an organization has chosen to focus and report on during the planning period. Priorities represent the things that are most important or what must be done first to support the achievement of the desired Strategic Outcome(s).

program (programme)

A group of related resource inputs and activities that are managed to meet specific needs and to achieve intended results and that are treated as a budgetary unit.

Program Alignment Architecture (architecture d'alignement des programmes)

A structured inventory of an organization's programs depicting the hierarchical relationship between programs and the Strategic Outcome(s) to which they contribute.

results (résultat)

An external consequence attributed, in part, to an organization, policy, program or initiative. Results are not within the control of a single organization, policy, program or initiative; instead they are within the area of the organization's influence.

statutory expenditures (dépenses législatives)

Expenditures that Parliament has approved through legislation other than appropriation acts. The legislation sets out the purpose of the expenditures and the terms and conditions under which they may be made.

Strategic Outcome (résultat stratégique)

A long-term and enduring benefit to Canadians that is linked to the organization's mandate, vision and core functions.

sunset program (programme temporisé)

A time-limited program that does not have an ongoing funding and policy authority. When the program is set to expire, a decision must be made whether to continue the program. In the case of a renewal, the decision specifies the scope, funding level and duration.

target (cible)

A measurable performance or success level that an organization, program or initiative plans to achieve within a specified time period. Targets can be either quantitative or qualitative.

voted expenditures (dépenses votées)

Expenditures that Parliament approves annually through an Appropriation Act. The Vote wording becomes the governing conditions under which these expenditures may be made.

Endnotes

i. The Minister's mandate letter, http://pm.gc.ca/eng/mandate-letters
ii. 2017-18 Main Estimates, http://www.tbs-sct.gc.ca/hgw-cgf/finances/pgs-pdg/gepme-pdgbpd/index-eng.asp
iii. Copyright Act: http://laws-lois.justice.gc.ca/eng/acts/C-42/index.html
iv. Report on Federal Tax Expenditures, http://www.fin.gc.ca/purl/taxexp-eng.asp